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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/064,170	06/18/2002	Darren Bisaro	201-1294	8861

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EXAMINER
VANAMAN, FRANK BENNETT

ART UNIT	PAPER NUMBER
3618	

DATE MAILED: 03/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/064,170

Applicant(s)

BISARO ET AL.

Examiner

Frank Vanaman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 14-18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13, 19 and 20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 June 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Election/Restrictions

1. Applicant's election of Invention I in Paper No. 4 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

An office action on claims 1-13, 19 and 20 follows.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the controller controlling the actuation of a mechanical or electrical switch (claims 4, 5) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Objections

3. Claim 1 is objected to because of the following informalities: at claim 1, line 4, it appears that --assembly-- should be inserted after "powertrain" for consistency with claim 1, line 1. Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-4, 6, 8, 19 and 20 are rejected under 35 U.S.C. 102(e) as being anticipated by Muramatsu et al. (US 6,491,290, US filed 6/7/01, foreign 7/14/00). Muramatsu et al. teach an engine mount (10) for connecting an engine powertrain portion to a remaining vehicle portion, the mount operable in idle and running modes, including at least one sensor which delivers one of engine speed, vehicle running speed, shift lever position, intake air temperature or other parameters (see col. 13, lines 41-55), which controls the operation of a three way vacuum solenoid valve (80, col. 13, lines 20-29), having vacuum lines to the mount (line 78) and manifold (col. 12, lines 51-53), the valve serving as an electropneumatic switch, (col. 13, line 25), under the influence of a controller (82), the system controlled to operate in either a running mode or an idle mode (col. 13, line 56 through col. 14, line 5; col. 14, lines 22-35) based on the controller performing a comparison with a signal representative of such a state (col. 13, lines 48-55), and wherein when the signal shifts a minimum of below a value associated with, for example a running state, to above such value, the estimation of the state would change from one mode to the other. As regards claim 20, in view of the provision of sensing a shift position (see col. 13, lines 41-55), it is deemed inherent that the sensing of the shift lever in a neutral or park position would constitute a likelihood of the vehicle and engine remaining in an idle mode, to the breadth claimed.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 5, 7 and 9-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Muramatsu et al. (cited above). The reference to Muramatsu is discussed above. As regards claim 5, the reference fails to teach the provision of an electrical switch actuated by the controller. Relay elements are very old and well known, and it is well known to use such switching devices, for example when the output of a control cannot source the quantity of current to directly drive an actuator, and as such, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide an electrical switch operated by the controller to allow a high current actuator to be controlled.

As regards claim 7, the reference to Muramatsu et al. fails to teach the threshold as being based on an engine torque rate. The measurement of an engine load as an indicator of engine output and performance is well known (e.g., torque sensors) and as such, it would have been obvious to one of ordinary skill in the art at the time of the invention to measure an engine output torque to determine the mode for the purpose of making the mode determination independent of engine speed. Further, in view of Muramatsu et al. teaching other non-speed-based parameters as measurable to determine idle or driving mode (col. 13, lines 46-48) it appears that Muramatsu et al. anticipate the concept of making a non-speed-based determination.

As regards claim 9, the reference to Muramatsu et al. fail to teach a particular rate of change of engine speed as indicative of a mode change, in view of the well known use of rate of change of variables (e.g., determining acceleration from speed or velocity data), it would have been obvious to one of ordinary skill in the art at the time of

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the invention to determine a rate of change of engine speed for the purpose of providing finer resolution of the control, particularly in high-rate of change regions.

As regards claims 10 and 11, the provision of a time delay is very old and well known in control systems for reducing jitter in regions around a threshold for the purpose of reducing oscillations of the system, and as such, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide a time delay in the controller taught by Muramatsu et al. for the purpose of insuring the mode-switching does not oscillate uncontrollably in the region of transition between measured idle and running modes.

As regards claims 12 and 13, while Muramatsu et al. teach measuring engine speed, no particular means associated with the engine is set forth. In that both crank shafts and cam shafts on engines rotate at a speed which may be easily related to the engine speed itself, it is not deemed at all beyond the skill of the ordinary practitioner to employ either a camshaft or crankshaft speed sensor in order to reliably determine the engine speed.

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Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Muramatsu et al. (US 5,145,156), Yamazaki (US 5,360,080), Takano et al. (US 5,393,041), Shibata et al. (US 6,120,012), Nemoto et al. (US 6,631,895), and Oberle (US 6,386,527) teach support elements of pertinence.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to F. Vanaman whose telephone number is 703-308-0424. Any inquiry of a general nature or relating to the status of this application should be directed to the group receptionist whose telephone number is 703-308-1113.

As of May 1, 2003, any response to this action should be mailed to:

Mail Stop _____
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450,

Or faxed to one of the following fax servers:

Regular Communications/Amendments: 703-872-9326
After Final Amendments: 703-872-9327
Customer Service Communications: 703-872-9325

F. VANAMAN
Primary Examiner
Art Unit 3618



3/20/04